

FALL OF 2009
IMMIGRATION LAW AND PROCEDURE
MASSACHUSETTS SCHOOL OF LAW

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EXAM INSTRUCTIONS

Materials allowed to the exam : course syllabus, Immigration and Nationality Laws of the U.S. - Selected Statutes and the October 2009 Visa Bulletin.

Questions 1 through 5 are each worth 20 points. Read the facts completely and analyze the situation. Detail the advice you would give to your client

The following clients have come to you for a consultation. Use your knowledge, the Act and the October 2009 Visa Bulletin to analyze and discuss their situation. Detail the immigration process for each client and the likelihood of a favorable outcome. Spot the issues and determine which regulation[s]/statute and form[s] that is necessary in each case. Results may not be immediate.

Abbreviations:

USC = United States citizen

LPR = lawful permanent resident

BCIS & ICE = formerly Immigration Service

QUESTION 1

Bella from Belarus comes to your office, wishing to apply for her United States citizenship. She details to you that she received her asylum grant in Boston on January 5, 2003 and applied for and was granted her LPR on January 27, 2005. She has been residing in the United States since 2001, previous to her grant.

Recently she has been living in Chelsea and was working as a hostess at Ciao Bella on Newbury Street until the birth of her son . She also informs you that she married Yugo, her longtime boyfriend, in Belarus on May 20, 2007 and they have a son together born in the United States on September 8, 2008. Yugo has never been in the United States.

She tells you that *every time* she goes home she is getting pressure from her in-laws that she has not done anything to help Yugo to enter the United States. He is anxious and has tried to obtain a visa before. When she returns to Belarus he is always working and does not spend that much time with her.

What advice do you give her about her prospective application for United States citizenship and the future of her husband?

When can she apply for her United States citizenship?

What information and documentation do you need from her?

What if anything can be done at this time for her husband Yugo?

What information and documentation do you need from him (and her) for their prospective process?

QUESTION 2

Alexia entered the United States from Italy with her aunt Trina on a valid tourist visa in summer of 2004 when she was seventeen years of age. She then was enrolled in high school in Andover, Ma and graduated in 2006. At that time she was residing with Aunt Trina and her family. She applied for and was granted admission to attend Bentley University in Waltham, MA to study business administration. She is in her fourth year of college and expects to graduate in May of 2010. She lives in the dormitory, but unbeknownst to her Aunt, she tells you that she has been living with her boyfriend James at his apartment in Belmont, MA.

Alexia informs you that she has traveled back to Italy on many occasions to visit with family and friends.

It is Christmas break and she has come to your office, with James, to discuss her future after graduation. She anticipates graduating with only a 2.5 GPA and states she was never interested in school anyway – but intends to complete! With the economy being so tough, and her grades not that promising, it has been tough to locate a job in her field of education in this area. She has been on many interviews and has been offered a job as an accountant with a resort in Scottsdale, Arizona.

She is not quite sure she wants to move away from New England and leave her family and boyfriend James. However, she wants to live in the United States and is seeking advice from you on how that can be accomplished.

Before you are able to give her legal advice, what documents do you need from her?

What do you need to know about her immigration status?

Did she maintain lawful status since her entry in 2004?

What advice can you give her about her prospective job offer and what will she have to do in order to accept that job?

Are there any suggestions that can be made for a future with James?

What information do you need to know about James?

QUESTION 3

Roma is a native and citizen of Uruguay who initially entered the United States as a F-1, graduate student in 2003

Roma and her present husband Joe had dated since 2004, four years before they got married on New Years Eve in 2007. They began to live together in 2005. They had a grand wedding where both immediate families attended, along with approximately 200 guests of family and friends

Roma has been a conditional resident alien since June, 2008. She received her status through her USC husband Joe's marital petition.

They both love the sport of soccer and have traveled extensively together following their favorite teams. Roma has a well paying professional job and together they bought their home in 2006 (before their marriage). Roma is required to spend long hours at her job and is an adjunct professor at the community college. Joe, on the other hand, only works part time and stops working in the summer to play golf. He has been arrested on several occasions for drinking in public and disorderly conduct. He does not maintain the home and waits for Roma to cook, clean and pay the bills.

Although they have been together for 5 years, this is not the life Roma envisioned. They have been separated since October 2009.

Roma is in your office to discuss the possibility of filing for a divorce and the effect it would have on her immigration status and future citizenship application.

What is your advice, based upon her present immigration status?

What process must she pursue so as not to lose her lawful status?

How will her decision affect her immigration status?

What documentation will you need from her?

Will she be able to apply for United States citizenship, and if so, when?

QUESTION 4

You have received a phone call from Carleton Michel. He has informed you that his son, Omar, has been arrested and detained by Immigration and Customs Enforcement (ICE) officers. He is presently being held at the Plymouth County House of Correction, Plymouth, MA.

Carleton and his family are from Trinidad. Carleton informs you that his entire family, consisting of his spouse and four (4) children, are all naturalized USC except Omar who is only a LPR.

He tells you that his son, Omar is single with no children. He lives with a roommate in Allston, MA.

He tells you the facts, as he knows it: Omar entered the US with his immigrant visa in 1986, when he was 14 years old. He has always resided in MA. He has completed high school from Boston Latin, a prestigious high school in Boston. He continued to college where he graduated, with honors, from University of Massachusetts in Amherst in 2006. Omar has held various jobs after college and is presently employed at Fidelity Investments.

Last Thursday, Omar was with colleagues at a nightclub in Chinatown. The group got rowdy after the closing of the club and he and three other colleagues were arrested for Disorderly Conduct. The group was taken to the Boston Police Department in Roxbury to be "booked". The other gentleman received their criminal complaints and left the department that night. Unfortunately, Omar was *held over night* and the next day was picked up by the ICE officers. He was processed by the ICE officers and is being housed at Plymouth House of corrections.

Carleton, the father, comes to tell you that he does not know why his son is being held by the immigration authorities his son is a LPR for over twelve (12) years.

HE NEEDS INFORMATION AND LEGAL ASSISTANCE.

You contacted ICE office in Burlington, MA and found out that he is being held for a prior drug possession offense that occurred in 2006. The officer is able to inform you that the incident arose out of the Quincy District Court and he pled guilty and received 6 months probation. He is being charged under section 237(a)(2)(i) of the Act and the ICE officer will be forwarding the notice to appear to the Court.

Carleton had no idea that his son was ever arrested. You have asked for a retainer and stated that you will go the House of Corrections and interview his son Omar.

He is now before the Immigration Court for removal proceedings.

What do you need to know about Omar's criminal past?
What can be done to obtain information about him?

Based upon all the information that you received (and speculating at this point) what relief, in light of the drug offense, does he have to apply for before the Court, to defend his status in the U.S.?

What documentation /evidence will you need the family to gather?

**** Are you able to get him out of jail while the case is pending before the Court?

Is there a citizenship application for him in the future?

QUESTION 5

Fundamental definitions and procedural distinctions encompass U.S. immigration laws; we discussed several of them in detail during the semester, including the following:

BRIEFLY:

DEFINE the word or phrase given, according to US immigration laws - give example;
PROVIDE the section of law; and
EXPLAIN WHY each word or phrase given is important.

- A. Step-Child
- B. Nonimmigrant
- C. Conviction